

Calendar No. 151

104TH CONGRESS
1ST SESSION

S. 1060

A BILL

To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

JULY 21 (legislative day, JULY 10), 1995

Read twice and ordered to be placed on the calendar

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To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JULY 10), 1995

Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. WELLSTONE, Mr. LAUTENBERG, Mr. FEINGOLD, and Mr. BAUCUS) introduced the following bill; which was read twice and ordered to be placed on the calendar

A BILL

To provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Lobbying Disclosure
5 Act of 1995”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

1 (1) responsible representative Government re-
2 quires public awareness of the efforts of paid lobby-
3 ists to influence the public decisionmaking process in
4 both the legislative and executive branches of the
5 Federal Government;

6 (2) existing lobbying disclosure statutes have
7 been ineffective because of unclear statutory lan-
8 guage, weak administrative and enforcement provi-
9 sions, and an absence of clear guidance as to who
10 is required to register and what they are required to
11 disclose; and

12 (3) the effective public disclosure of the identity
13 and extent of the efforts of paid lobbyists to influ-
14 ence Federal officials in the conduct of Government
15 actions will increase public confidence in the integ-
16 rity of Government.

17 **SEC. 3. DEFINITIONS.**

18 As used in this Act:

19 (1) AGENCY.—The term “agency” has the
20 meaning given that term in section 551(1) of title 5,
21 United States Code.

22 (2) CLIENT.—The term “client” means any
23 person or entity that employs or retains another per-
24 son for financial or other compensation to conduct
25 lobbying activities on behalf of that person or entity.

1 A person or entity whose employees act as lobbyists
2 on its own behalf is both a client and an employer
3 of such employees. In the case of a coalition or asso-
4 ciation that employs or retains other persons to con-
5 duct lobbying activities, the client is the coalition or
6 association and not its individual members.

7 (3) COVERED EXECUTIVE BRANCH OFFICIAL.—
8 The term “covered executive branch official”
9 means—

10 (A) the President;

11 (B) the Vice President;

12 (C) any officer or employee, or any other
13 individual functioning in the capacity of such
14 an officer or employee, in the Executive Office
15 of the President;

16 (D) any officer or employee serving in a
17 position in level I, II, III, IV, or V of the Exec-
18 utive Schedule, as designated by statute or Ex-
19 ecutive order;

20 (E) any officer or employee serving in a
21 Senior Executive Service position, as defined in
22 section 3132(a)(2) of title 5, United States
23 Code;

1 (F) any member of the uniformed services
2 whose pay grade is at or above O-7 under sec-
3 tion 201 of title 37, United States Code; and

4 (G) any officer or employee serving in a
5 position of a confidential, policy-determining,
6 policy-making, or policy-advocating character
7 described in section 7511(b)(2) of title 5, Unit-
8 ed States Code.

9 (4) COVERED LEGISLATIVE BRANCH OFFI-
10 CIAL.—The term “covered legislative branch official”
11 means—

12 (A) a Member of Congress;

13 (B) an elected officer of either House of
14 Congress;

15 (C) any employee of, or any other individ-
16 ual functioning in the capacity of an employee
17 of—

18 (i) a Member of Congress;

19 (ii) a committee of either House of
20 Congress;

21 (iii) the leadership staff of the House
22 of Representatives or the leadership staff
23 of the Senate;

24 (iv) a joint committee of Congress;
25 and

1 (v) a working group or caucus orga-
2 nized to provide legislative services or
3 other assistance to Members of Congress;
4 and

5 (D) any other legislative branch employee
6 serving in a position described under section
7 109(13) of the Ethics in Government Act of
8 1978 (5 U.S.C. App.).

9 (5) DIRECTOR.—The term “Director” means
10 the Director of the Office of Lobbying Registration
11 and Public Disclosure.

12 (6) EMPLOYEE.—The term “employee” means
13 any individual who is an officer, employee, partner,
14 director, or proprietor of a person or entity, but does
15 not include—

16 (A) independent contractors; or

17 (B) volunteers who receive no financial or
18 other compensation from the person or entity
19 for their services.

20 (7) FOREIGN ENTITY.—The term “foreign en-
21 tity” means a foreign principal (as defined in section
22 1(b) of the Foreign Agents Registration Act of 1938
23 (22 U.S.C. 611(b)).

24 (8) LOBBYING ACTIVITIES.—The term “lobby-
25 ing activities” means lobbying contacts and efforts

1 in support of such contacts, including preparation
2 and planning activities, research and other back-
3 ground work that is intended, at the time it is per-
4 formed, for use in contacts, and coordination with
5 the lobbying activities of others. Lobbying activities
6 also include efforts to stimulate grassroots lobbying,
7 as described in section 4911(d)(1)(A) of the Internal
8 Revenue Code of 1986, to the extent that such com-
9 munications are made in support of a lobbying con-
10 tact by a registered lobbyist. A communication in
11 support of a lobbying contact is a lobbying activity
12 even if the communication is excluded from the defi-
13 nition of “lobbying contact” under paragraph
14 (9)(B).

15 (9) LOBBYING CONTACT.—

16 (A) DEFINITION.—The term “lobbying
17 contact” means any oral or written communica-
18 tion (including an electronic communication) to
19 a covered executive branch official or a covered
20 legislative branch official that is made on behalf
21 of a client with regard to—

22 (i) the formulation, modification, or
23 adoption of Federal legislation (including
24 legislative proposals);

1 (ii) the formulation, modification, or
2 adoption of a Federal rule, regulation, Ex-
3 ecutive order, or any other program, policy,
4 or position of the United States Govern-
5 ment;

6 (iii) the administration or execution of
7 a Federal program or policy (including the
8 negotiation, award, or administration of a
9 Federal contract, grant, loan, permit, or li-
10 cense), except that this clause does not in-
11 clude communications that are made to
12 any covered executive branch official—

13 (I) who is serving in a Senior Ex-
14 ecutive Service position described in
15 paragraph (3)(E); or

16 (II) who is a member of the uni-
17 formed services whose pay grade is
18 lower than O-9 under section 201 of
19 title 37, United States Code,
20 in the agency responsible for taking such
21 administrative or executive action; or

22 (iv) the nomination or confirmation of
23 a person for a position subject to confirma-
24 tion by the Senate.

1 (B) EXCEPTIONS.—The term “lobbying
2 contact” does not include a communication that
3 is—

4 (i) made by a public official acting in
5 the public official’s official capacity;

6 (ii) made by a representative of a
7 media organization if the purpose of the
8 communication is gathering and dissemi-
9 nating news and information to the public;

10 (iii) made in a speech, article, publica-
11 tion or other material that is widely dis-
12 tributed to the public, or through radio,
13 television, cable television, or other medium
14 of mass communication;

15 (iv) made on behalf of a government
16 of a foreign country or a foreign political
17 party and disclosed under the Foreign
18 Agents Registration Act of 1938 (22
19 U.S.C. 611 et seq.);

20 (v) a request for a meeting, a request
21 for the status of an action, or any other
22 similar administrative request, if the re-
23 quest does not include an attempt to influ-
24 ence a covered executive branch official or
25 a covered legislative branch official;

1 (vi) made in the course of participa-
2 tion in an advisory committee subject to
3 the Federal Advisory Committee Act;

4 (vii) testimony given before a commit-
5 tee, subcommittee, or task force of the
6 Congress, or submitted for inclusion in the
7 public record of a hearing conducted by
8 such committee, subcommittee, or task
9 force;

10 (viii) information provided in writing
11 in response to a written request by a cov-
12 ered executive branch official or a covered
13 legislative branch official for specific infor-
14 mation;

15 (ix) required by subpoena, civil inves-
16 tigative demand, or otherwise compelled by
17 statute, regulation, or other action of the
18 Congress or an agency;

19 (x) made in response to a notice in
20 the Federal Register, Commerce Business
21 Daily, or other similar publication solicit-
22 ing communications from the public and
23 directed to the agency official specifically
24 designated in the notice to receive such
25 communications;

1 (xi) not possible to report without dis-
2 closing information, the unauthorized dis-
3 closure of which is prohibited by law;

4 (xii) made to an official in an agency
5 with regard to—

6 (I) a judicial proceeding or a
7 criminal or civil law enforcement in-
8 quiry, investigation, or proceeding; or

9 (II) a filing or proceeding that
10 the Government is specifically re-
11 quired by statute or regulation to
12 maintain or conduct on a confidential
13 basis,

14 if that agency is charged with responsibil-
15 ity for such proceeding, inquiry, investiga-
16 tion, or filing;

17 (xiii) made in compliance with written
18 agency procedures regarding an adjudica-
19 tion conducted by the agency under section
20 554 of title 5, United States Code, or sub-
21 stantially similar provisions;

22 (xiv) a written comment filed in the
23 course of a public proceeding or any other
24 communication that is made on the record
25 in a public proceeding;

1 (xv) a petition for agency action made
2 in writing and required to be a matter of
3 public record pursuant to established agen-
4 cy procedures;

5 (xvi) made on behalf of an individual
6 with regard to that individual's benefits,
7 employment, or other personal matters in-
8 volving only that individual, except that
9 this clause does not apply to any commu-
10 nication with—

11 (I) a covered executive branch of-
12 ficial, or

13 (II) a covered legislative branch
14 official (other than the individual's
15 elected Members of Congress or em-
16 ployees who work under such Mem-
17 bers' direct supervision),
18 with respect to the formulation, modifica-
19 tion, or adoption of private legislation for
20 the relief of that individual;

21 (xvii) a disclosure by an individual
22 that is protected under the amendments
23 made by the Whistleblower Protection Act
24 of 1989, under the Inspector General Act
25 of 1978, or under another provision of law;

1 (xviii) made by—

2 (I) a church, its integrated auxil-
3 iary, or a convention or association of
4 churches that is exempt from filing a
5 Federal income tax return under
6 paragraph 2(A)(i) of section 6033(a)
7 of the Internal Revenue Code of 1986,
8 or

9 (II) a religious order that is ex-
10 empt from filing a Federal income tax
11 return under paragraph (2)(A)(iii) of
12 such section 6033(a); and

13 (xix) between—

14 (I) officials of a self-regulatory
15 organization (as defined in section
16 3(a)(26) of the Securities Exchange
17 Act) that is registered with or estab-
18 lished by the Securities and Exchange
19 Commission as required by that Act
20 or a similar organization that is des-
21 ignated by or registered with the
22 Commodities Future Trading Com-
23 mission as provided under the Com-
24modity Exchange Act; and

1 (II) the Securities and Exchange
2 Commission or the Commodities Fu-
3 ture Trading Commission, respec-
4 tively;

5 relating to the regulatory responsibilities of
6 such organization under that Act.

7 (10) LOBBYING FIRM.—The term “lobbying
8 firm” means a person or entity that has 1 or more
9 employees who are lobbyists on behalf of a client
10 other than that person or entity. The term also in-
11 cludes a self-employed individual who is a lobbyist.

12 (11) LOBBYIST.—The term “lobbyist” means
13 any individual who is employed or retained by a cli-
14 ent for financial or other compensation for services
15 that include 1 or more lobbying contacts, other than
16 an individual whose lobbying activities constitute less
17 than 10 percent of the time engaged in the services
18 provided by such individual to that client.

19 (12) MEDIA ORGANIZATION.—The term “media
20 organization” means a person or entity engaged in
21 disseminating information to the general public
22 through a newspaper, magazine, other publication,
23 radio, television, cable television, or other medium of
24 mass communication.

1 (13) MEMBER OF CONGRESS.—The term
2 “Member of Congress” means a Senator or a Rep-
3 resentative in, or Delegate or Resident Commis-
4 sioner to, the Congress.

5 (14) ORGANIZATION.—The term “organization”
6 means a person or entity other than an individual.

7 (15) PERSON OR ENTITY.—The term “person
8 or entity” means any individual, corporation, com-
9 pany, foundation, association, labor organization,
10 firm, partnership, society, joint stock company,
11 group of organizations, or State or local government.

12 (16) PUBLIC OFFICIAL.—The term “public offi-
13 cial” means any elected official, appointed official, or
14 employee of—

15 (A) a Federal, State, or local unit of gov-
16 ernment in the United States other than—

17 (i) a college or university;

18 (ii) a government-sponsored enterprise
19 (as defined in section 3(8) of the Congres-
20 sional Budget and Impoundment Control
21 Act of 1974);

22 (iii) a public utility that provides gas,
23 electricity, water, or communications;

24 (iv) a guaranty agency (as defined in
25 section 435(j) of the Higher Education Act

1 of 1965 (20 U.S.C. 1085(j))), including
2 any affiliate of such an agency; or

3 (v) an agency of any State functioning
4 as a student loan secondary market pursu-
5 ant to section 435(d)(1)(F) of the Higher
6 Education Act of 1965 (20 U.S.C.
7 1085(d)(1)(F));

8 (B) a Government corporation (as defined
9 in section 9101 of title 31, United States
10 Code);

11 (C) an organization of State or local elect-
12 ed or appointed officials other than officials of
13 an entity described in clause (i), (ii), (iii), (iv),
14 or (v) of subparagraph (A);

15 (D) an Indian tribe (as defined in section
16 4(e) of the Indian Self-Determination and Edu-
17 cation Assistance Act (25 U.S.C. 450b(e));

18 (E) a national or State political party or
19 any organizational unit thereof; or

20 (F) a national, regional, or local unit of
21 any foreign government.

22 (17) STATE.—The term “State” means each of
23 the several States, the District of Columbia, and any
24 commonwealth, territory, or possession of the United
25 States.

1 **SEC. 4. REGISTRATION OF LOBBYISTS.**

2 (a) REGISTRATION.—

3 (1) GENERAL RULE.—No later than 30 days
4 after a lobbyist first makes a lobbying contact or is
5 employed or retained to make a lobbying contact,
6 whichever is earlier, such lobbyist (or, as provided
7 under paragraph (2), the organization employing
8 such lobbyist), shall register with the Office of Lob-
9 bying Registration and Public Disclosure.

10 (2) EMPLOYER FILING.—Any organization that
11 has 1 or more employees who are lobbyists shall file
12 a single registration under this section on behalf of
13 such employees for each client on whose behalf the
14 employees act as lobbyists.

15 (3) EXEMPTION.—

16 (A) GENERAL RULE.—Notwithstanding
17 paragraphs (1) and (2), a person or entity
18 whose—

19 (i) total income for matters related to
20 lobbying activities on behalf of a particular
21 client (in the case of a lobbying firm) does
22 not exceed and is not expected to exceed
23 \$2,500; or

24 (ii) total expenses in connection with
25 lobbying activities (in the case of an orga-
26 nization whose employees engage in lobby-

1 ing activities on its own behalf) do not ex-
2 ceed or are not expected to exceed \$5,000,
3 (as estimated under section 5) in the semi-
4 annual period described in section 5(a) during
5 which the registration would be made is not re-
6 quired to register under subsection (a) with re-
7 spect to such client.

8 (B) ADJUSTMENT.—The dollar amounts in
9 subparagraph (A) shall be adjusted—

10 (i) on January 1, 1997, to reflect
11 changes in the Consumer Price Index (as
12 determined by the Secretary of Labor)
13 since the date of enactment of this Act;
14 and

15 (ii) on January 1 of each fourth year
16 occurring after January 1, 1997, to reflect
17 changes in the Consumer Price Index (as
18 determined by the Secretary of Labor)
19 during the preceding 4-year period,

20 rounded to the nearest \$500.

21 (b) CONTENTS OF REGISTRATION.—Each registra-
22 tion under this section shall be in such form as the Direc-
23 tor shall prescribe by regulation and shall contain—

24 (1) the name, address, business telephone num-
25 ber, and principal place of business of the registrant,

1 and a general description of its business or activi-
2 ties;

3 (2) the name, address, and principal place of
4 business of the registrant's client, and a general de-
5 scription of its business or activities (if different
6 from paragraph (1));

7 (3) the name, address, and principal place of
8 business of any organization, other than the client,
9 that—

10 (A) contributes more than \$5,000 toward
11 the lobbying activities of the registrant in a
12 semiannual period described in section 5(a);
13 and

14 (B) participates significantly in the plan-
15 ning, supervision, or control of such lobbying
16 activities;

17 (4) the name, address, principal place of busi-
18 ness, amount of any contribution of more than
19 \$5,000 to the lobbying activities of the registrant,
20 and approximate percentage of equitable ownership
21 in the client (if any) of any foreign entity that—

22 (A) holds at least 20 percent equitable
23 ownership in the client or any organization
24 identified under paragraph (3);

1 (B) directly or indirectly, in whole or in
2 major part, plans, supervises, controls, directs,
3 finances, or subsidizes the activities of the cli-
4 ent or any organization identified under para-
5 graph (3); or

6 (C) is an affiliate of the client or any orga-
7 nization identified under paragraph (3) and has
8 a direct interest in the outcome of the lobbying
9 activity;

10 (5) a statement of—

11 (A) the general issue areas in which the
12 registrant expects to engage in lobbying activi-
13 ties on behalf of the client; and

14 (B) to the extent practicable, specific is-
15 sues that have (as of the date of the registra-
16 tion) already been addressed or are likely to be
17 addressed in lobbying activities; and

18 (6) the name of each employee of the registrant
19 who has acted or whom the registrant expects to act
20 as a lobbyist on behalf of the client and, if any such
21 employee has served as a covered executive branch
22 official or a covered legislative branch official in the
23 2 years before the date on which such employee first
24 acted (after the date of enactment of this Act) as a

1 lobbyist on behalf of the client, the position in which
2 such employee served.

3 (c) GUIDELINES FOR REGISTRATION.—

4 (1) MULTIPLE CLIENTS.—In the case of a reg-
5 istrant making lobbying contacts on behalf of more
6 than 1 client, a separate registration under this sec-
7 tion shall be filed for each such client.

8 (2) MULTIPLE CONTACTS.—A registrant who
9 makes more than 1 lobbying contact for the same
10 client shall file a single registration covering all such
11 lobbying contacts.

12 (d) TERMINATION OF REGISTRATION.—A registrant
13 who after registration—

14 (1) is no longer employed or retained by a cli-
15 ent to conduct lobbying activities, and

16 (2) does not anticipate any additional lobbying
17 activities for such client,

18 may so notify the Director and terminate its registration.

19 **SEC. 5. REPORTS BY REGISTERED LOBBYISTS.**

20 (a) SEMIANNUAL REPORT.—

21 (1) IN GENERAL.—No later than 30 days after
22 the end of the semiannual period beginning on the
23 first day of each January and the first day of July
24 of each year in which a registrant is registered
25 under section 4, each registrant shall file a report

1 with the Office of Lobbying Registration and Public
2 Disclosure on its lobbying activities during such
3 semiannual period. A separate report shall be filed
4 for each client of the registrant.

5 (2) EXEMPTION.—

6 (A) GENERAL RULE.—Any registrant
7 whose—

8 (i) total income for a particular client
9 for matters that are related to lobbying ac-
10 tivities on behalf of that client (in the case
11 of a lobbying firm), does not exceed and is
12 not expected to exceed \$2,500; or

13 (ii) total expenses in connection with
14 lobbying activities (in the case of a reg-
15 istrant whose employees engage in lobbying
16 activities on its own behalf) do not exceed
17 and are not expected to exceed \$5,000,

18 in a semiannual period (as estimated under
19 paragraph (3) or (4) of subsection (b) or para-
20 graph (4) of subsection (c), as applicable) is
21 deemed to be inactive during such period and
22 may comply with the reporting requirements of
23 this section by so notifying the Director in such
24 form as the Director may prescribe.

1 (B) ADJUSTMENT.—The dollar amounts in
2 subparagraph (A) shall be adjusted as provided
3 in section 4(a)(3)(B).

4 (b) CONTENTS OF REPORT.—Each semiannual re-
5 port filed under subsection (a) shall be in such form as
6 the Director shall prescribe by regulation and shall con-
7 tain—

8 (1) the name of the registrant, the name of the
9 client, and any changes or updates to the informa-
10 tion provided in the initial registration;

11 (2) for each general issue area in which the reg-
12 istrant engaged in lobbying activities on behalf of
13 the client during the semiannual filing period—

14 (A) a list of the specific issues upon which
15 a lobbyist employed by the registrant engaged
16 in lobbying activities, including, to the maxi-
17 mum extent practicable, a list of bill numbers
18 and references to specific regulatory actions,
19 programs, projects, contracts, grants, and
20 loans;

21 (B) a statement of the Houses and com-
22 mittees of Congress and the Federal agencies
23 contacted by lobbyists employed by the reg-
24 istrant on behalf of the client;

1 (C) a list of the employees of the registrant
2 who acted as lobbyists on behalf of the client;
3 and

4 (D) a description of the interest, if any, of
5 any foreign entity identified under section
6 4(b)(4) in the specific issues listed under sub-
7 paragraph (A).

8 (3) in the case of a lobbying firm, a good faith
9 estimate of the total amount of all income from the
10 client (including any payments to the registrant by
11 any other person for lobbying activities on behalf of
12 the client) during the semiannual period, other than
13 income for matters that are unrelated to lobbying
14 activities; and

15 (4) in the case of a registrant engaged in lobby-
16 ing activities on its own behalf, a good faith estimate
17 of the total expenses that the registrant and its em-
18 ployees incurred in connection with lobbying activi-
19 ties during the semiannual filing period.

20 (c) ESTIMATES OF INCOME OR EXPENSES.—For pur-
21 poses of this section, estimates of income or expenses shall
22 be made as follows:

23 (1) \$100,000 OR LESS.—Income or expenses of
24 \$100,000 or less shall be estimated in accordance
25 with the following categories:

1 (A) \$10,000 or less.

2 (B) More than \$10,000 but not more than
3 \$20,000.

4 (C) More than \$20,000 but not more than
5 \$50,000.

6 (D) More than \$50,000 but not more than
7 \$100,000.

8 (2) MORE THAN \$100,000 BUT NOT MORE THAN
9 \$500,000.—Income or expenses in excess of \$100,000
10 but not more than \$500,000 shall be estimated and
11 rounded to the nearest \$50,000.

12 (3) MORE THAN \$500,000.—Income or expenses
13 in excess of \$500,000 shall be estimated and round-
14 ed to the nearest \$100,000.

15 (4) CONSTRUCTION.—In estimating total in-
16 come or expenses under this section, a registrant is
17 not required to include—

18 (A) the value of contributed services for
19 which no payment is made; or

20 (B) the expenses for services provided by
21 an independent contractor of the registrant who
22 is separately registered under this Act.

23 (d) CONTACTS.—

24 (1) CONTACTS WITH COMMITTEES.—For pur-
25 poses of subsection (b)(2), any contact with a mem-

1 ber of a committee of Congress, an employee of a
2 committee of Congress, or an employee of a member
3 of a committee of Congress regarding a matter with-
4 in the jurisdiction of such committee shall be consid-
5 ered to be a contact with the committee.

6 (2) CONTACTS WITH HOUSE OF CONGRESS.—
7 For purposes of subsection (b)(2), any contact with
8 a Member of Congress or an employee of a Member
9 of Congress regarding a matter that is not within
10 the jurisdiction of a committee of Congress of which
11 that Member is a member shall be considered to be
12 a contact with the House of Congress of that Mem-
13 ber.

14 (3) CONTACTS WITH FEDERAL AGENCIES.—For
15 purposes of subsection (b)(2), any contact with a
16 covered executive branch official shall be considered
17 to be a contact with the Federal agency that em-
18 ploys that official, except that a contact with a cov-
19 ered executive branch official who is detailed to an-
20 other Federal agency or to the Congress shall be
21 considered to be a contact with the Federal agency
22 or with the committee of Congress or House of Con-
23 gress to which the official is detailed.

24 (e) EXTENSION FOR FILING.—The Director may
25 grant an extension of time of not more than 30 days for

1 the filing of any report under this section, upon the re-
2 quest of the registrant, for good cause shown.

3 **SEC. 6. PROHIBITION ON GIFTS BY LOBBYISTS, LOBBYING**
4 **FIRMS, AND AGENTS OF FOREIGN PRIN-**
5 **CIPALS.**

6 (a) IN GENERAL.—

7 (1) PROHIBITION.—No lobbyist or lobbying
8 firm registered under this Act and no agent of a for-
9 eign principal registered under the Foreign Agents
10 Registration Act may provide a gift, directly or indi-
11 rectly, to any covered legislative branch official.

12 (2) DEFINITION.—For purposes of this sec-
13 tion—

14 (A) the term “gift” means any gratuity,
15 favor, discount, entertainment, hospitality, loan,
16 forbearance, or other item having monetary
17 value and such term includes gifts of services,
18 training, transportation, lodging, and meals,
19 whether provided in kind, by purchase of a tick-
20 et, payment in advance, or reimbursement after
21 the expense has been incurred; and

22 (B) a gift to the spouse or dependent of a
23 covered legislative branch official (or a gift to
24 any other individual based on that individual’s
25 relationship with the covered legislative branch

1 official) shall be considered a gift to the covered
2 legislative branch official if it is given with the
3 knowledge and acquiescence of the covered leg-
4 islative branch official and is given because of
5 the official position of the covered legislative
6 branch official.

7 (b) GIFTS.—The prohibition in subsection (a) in-
8 cludes the following:

9 (1) Anything provided by a lobbyist or a foreign
10 agent which is paid for, charged to, or reimbursed
11 by a client or firm of such lobbyist or foreign agent.

12 (2) Anything provided by a lobbyist, a lobbying
13 firm, or a foreign agent to an entity that is main-
14 tained or controlled by a covered legislative branch
15 official.

16 (3) A charitable contribution (as defined in sec-
17 tion 170(c) of the Internal Revenue Code of 1986)
18 made by a lobbyist, a lobbying firm, or a foreign
19 agent on the basis of a designation, recommenda-
20 tion, or other specification of a covered legislative
21 branch official (not including a mass mailing or
22 other solicitation directed to a broad category of per-
23 sons or entities).

24 (4) A contribution or other payment by a lobby-
25 ist, a lobbying firm, or a foreign agent to a legal ex-

1 pense fund established for the benefit of a covered
2 legislative branch official or a covered executive
3 branch official.

4 (5) A charitable contribution (as defined in sec-
5 tion 170(c) of the Internal Revenue Code of 1986)
6 made by a lobbyist, a lobbying firm, or a foreign
7 agent in lieu of an honorarium to a covered legisla-
8 tive branch official.

9 (6) A financial contribution or expenditure
10 made by a lobbyist, a lobbying firm, or a foreign
11 agent relating to a conference, retreat, or similar
12 event, sponsored by or affiliated with an official con-
13 gressional organization, for or on behalf of covered
14 legislative branch officials.

15 (c) NOT GIFTS.—The following are not gifts subject
16 to the prohibition in subsection (a):

17 (1) Anything for which the recipient pays the
18 market value, or does not use and promptly returns
19 to the donor.

20 (2) A contribution, as defined in the Federal
21 Election Campaign Act of 1971 (2 U.S.C. 431 et
22 seq.) that is lawfully made under that Act, or at-
23 tendance at a fundraising event sponsored by a po-
24 litical organization described in section 527(e) of the
25 Internal Revenue Code of 1986.

1 (3) Food or refreshments of nominal value of-
2 ferred other than as part of a meal.

3 (4) Benefits resulting from the business, em-
4 ployment, or other outside activities of the spouse of
5 a covered legislative branch official, if such benefits
6 are customarily provided to others in similar cir-
7 cumstances.

8 (5) Pension and other benefits resulting from
9 continued participation in an employee welfare and
10 benefits plan maintained by a former employer.

11 (6) Informational materials that are sent to the
12 office of a covered legislative branch official in the
13 form of books, articles, periodicals, other written
14 materials, audiotapes, videotapes, or other forms of
15 communication.

16 (d) GIFTS GIVEN FOR A NONBUSINESS PURPOSE
17 AND MOTIVATED BY FAMILY RELATIONSHIP OR CLOSE
18 PERSONAL FRIENDSHIP.—

19 (1) IN GENERAL.—A gift given by an individual
20 under circumstances which make it clear that the
21 gift is given for a nonbusiness purpose and is moti-
22 vated by a family relationship or close personal
23 friendship and not by the position of the covered leg-
24 islative branch official shall not be subject to the
25 prohibition in subsection (a).

1 (2) NONBUSINESS PURPOSE.—A gift shall not
2 be considered to be given for a nonbusiness purpose
3 if the individual giving the gift seeks—

4 (A) to deduct the value of such gift as a
5 business expense on the individual's Federal in-
6 come tax return, or

7 (B) direct or indirect reimbursement or
8 any other compensation for the value of the gift
9 from a client or employer of such lobbyist or
10 foreign agent.

11 (3) FAMILY RELATIONSHIP OR CLOSE PER-
12 SONAL FRIENDSHIP.—In determining if the giving of
13 a gift is motivated by a family relationship or close
14 personal friendship, at least the following factors
15 shall be considered:

16 (A) The history of the relationship between
17 the individual giving the gift and the recipient
18 of the gift, including whether or not gifts have
19 previously been exchanged by such individuals.

20 (B) Whether the gift was purchased by the
21 individual who gave the item.

22 (C) Whether the individual who gave the
23 gift also at the same time gave the same or
24 similar gifts to other covered legislative branch
25 officials.

1 **SEC. 7. OFFICE OF LOBBYING REGISTRATION AND PUBLIC**
2 **DISCLOSURE.**

3 (a) ESTABLISHMENT AND DIRECTOR.—

4 (1) ESTABLISHMENT.—There is established an
5 executive agency to be known as the Office of Lob-
6 bying Registration and Public Disclosure.

7 (2) DIRECTOR.—(A) The Office shall be headed
8 by a Director, who shall be appointed by the Presi-
9 dent, by and with the advice and consent of the Sen-
10 ate.

11 (B) The Director shall be an individual who, by
12 demonstrated ability, background, training, and ex-
13 perience, is qualified to carry out the functions of
14 the position. The term of service of the Director
15 shall be 5 years. The Director may be removed for
16 cause.

17 (C) Section 5316 of title 5, United States Code,
18 is amended by adding at the end the following: “Di-
19 rector of the Office of Lobbying Registration and
20 Public Disclosure”.

21 (b) ADMINISTRATIVE POWERS.—The Director may—

22 (1) appoint officers and employees, including
23 attorneys, in accordance with chapter 51 and sub-
24 chapter III of chapter 53 of title 5, United States
25 Code, define their duties and responsibilities, and di-
26 rect and supervise their activities;

1 (2) contract for financial and administrative
2 services (including those related to budget and ac-
3 counting, financial reporting, personnel, and pro-
4 curement) with the General Services Administration,
5 or such Federal agency as the Director determines
6 appropriate, for which payment shall be made in ad-
7 vance or by reimbursement from funds of the Office
8 in such amounts as may be agreed upon by the Di-
9 rector and the head of the agency providing such
10 services, but the contract authority under this para-
11 graph shall be effective for any fiscal year only to
12 the extent that appropriations are available for that
13 purpose;

14 (3) request the head of any Federal department
15 or agency (who is hereby so authorized) to detail to
16 temporary duties with the Office such personnel
17 within the agency head's administrative jurisdiction
18 as the Office may need for carrying out its functions
19 under this Act, with or without reimbursement;

20 (4) request agency heads to provide information
21 needed by the Office, which information shall be
22 supplied to the extent permitted by law;

23 (5) utilize, with their consent, the services and
24 facilities of Federal agencies with or without reim-
25 bursement;

1 (6) accept, use, and dispose of gifts or dona-
2 tions of services or property, real, personal, or
3 mixed, tangible or intangible, for purposes of aiding
4 or facilitating the work of the Office; and

5 (7) use the United States mails in the same
6 manner and under the same conditions as other de-
7 partments and agencies of the United States.

8 (c) COOPERATION WITH OTHER GOVERNMENTAL
9 AGENCIES.—In order to avoid unnecessary expense and
10 duplication of function among Government agencies, the
11 Office may make such arrangements or agreements for co-
12 operation or mutual assistance in the performance of its
13 functions under this Act as is practicable and consistent
14 with law. The head of the General Services Administration
15 and each department, agency, or establishment of the
16 United States shall cooperate with the Office and, to the
17 extent permitted by law, provide such information, serv-
18 ices, personnel, and facilities as the Office may request
19 for its assistance in the performance of its functions under
20 this Act.

21 (d) DUTIES.—The Director shall—

22 (1) after notice and a reasonable opportunity
23 for public comment, and consultation with the Sec-
24 retary of the Senate, the Clerk of the House of Rep-
25 resentatives, and the Administrative Conference of

1 the United States, prescribe such regulations, pen-
2 alty guidelines, and forms as are necessary to carry
3 out this Act;

4 (2) provide guidance and assistance on the reg-
5 istration and reporting requirements of this Act, in-
6 cluding—

7 (A) providing information to all registrants
8 at the time of registration about the obligations
9 of registered lobbyists under this Act, and

10 (B) issuing published decisions and advi-
11 sory opinions;

12 (3) review the registrations and reports filed
13 under this Act and make such verifications or in-
14 quiries as are necessary to ensure the completeness,
15 accuracy, and timeliness of the registrations and re-
16 ports;

17 (4) develop filing, coding, and cross-indexing
18 systems to carry out the purposes of this Act, in-
19 cluding—

20 (A) a publicly available list of all registered
21 lobbyists and their clients; and

22 (B) computerized systems designed to min-
23 imize the burden of filing and maximize public
24 access to materials filed under this Act;

1 (5) ensure that the computer systems developed
2 pursuant to paragraph (4)—

3 (A) allow the materials filed under this Act
4 to be accessed by the client name, lobbyist
5 name, and registrant name;

6 (B) are compatible with computer systems
7 developed and maintained by the Federal Elec-
8 tion Commission, and that information filed in
9 the two systems can be readily cross-referenced;
10 and

11 (C) are compatible with computer systems
12 developed and maintained by the Secretary of
13 the Senate and the Clerk of the House of Rep-
14 resentatives;

15 (6) make copies of each registration and report
16 filed under this Act available to the public, upon the
17 payment of reasonable fees, not to exceed the cost
18 of such copies, as determined by the Director, in
19 written and electronic formats, as soon as prac-
20 ticable after the date on which such registration or
21 report is received;

22 (7) preserve the originals or accurate reproduc-
23 tion of—

24 (A) registrations filed under this Act for a
25 period that ends not less than 3 years after the

1 termination of the registration under section
2 4(d); and

3 (B) reports filed under this Act for a pe-
4 riod that ends not less than 3 years after the
5 date on which the report is received;

6 (8) maintain a computer record of—

7 (A) the information contained in registra-
8 tions for a period that ends not less than 5
9 years after the termination of the registration
10 under section 4(d); and

11 (B) the information contained in reports
12 filed under this Act for a period that ends not
13 less than 5 years after the date on which the
14 reports are received;

15 (9) compile and summarize, with respect to
16 each semiannual period, the information contained
17 in registrations and reports filed with respect to
18 such period in a manner which clearly presents the
19 extent and nature of expenditures on lobbying activi-
20 ties during such period;

21 (10) make information compiled and summa-
22 rized under paragraph (9) available to the public in
23 electronic and hard copy formats as soon as prac-
24 ticable after the close of each semiannual filing pe-
25 riod;

1 (11) provide, by computer telecommunication or
2 other transmittal in a form accessible by computer,
3 to the Secretary of the Senate and the Clerk of the
4 House of Representatives copies of all registrations
5 and reports received under sections 4 and 5 and all
6 compilations, cross-indexes, and summaries of such
7 registrations and reports, as soon as practicable (but
8 not later than 3 working days) after such material
9 is received or created;

10 (12) make available to the public a list of all
11 persons whom the Director determines, under sec-
12 tion 9 (after exhaustion of all appeals under section
13 11) to have committed a major or minor violation of
14 this Act and submit such list to the Congress as
15 part of the report provided for under paragraph
16 (13);

17 (13) make available to the public upon request
18 and transmit to the President, the Secretary of the
19 Senate, the Clerk of the House of Representatives,
20 the Committee on Governmental Affairs of the Sen-
21 ate, and the Committee on the Judiciary of the
22 House of Representatives a report, not later than
23 March 31 of each year, describing the activities of
24 the Office and the implementation of this Act, in-
25 cluding—

1 (A) a financial statement for the preceding
2 fiscal year;

3 (B) a summary of the registrations and re-
4 ports filed with the Office with respect to the
5 preceding calendar year;

6 (C) a summary of the registrations and re-
7 ports filed on behalf of foreign entities with re-
8 spect to the preceding calendar year; and

9 (D) recommendations for such legislative
10 or other action as the Director considers appro-
11 priate; and

12 (14) study the appropriateness of the definition
13 of “public official” under section 3(17) and make
14 recommendations for any change in such definition
15 in the first report filed pursuant to paragraph (13).

16 **SEC. 8. INITIAL PROCEDURE FOR ALLEGED VIOLATIONS.**

17 (a) ALLEGATION OF A VIOLATION.—Whenever the
18 Office of Lobbying Registration and Public Disclosure has
19 reason to believe that a person or entity may be in viola-
20 tion of the requirements of this Act, the Director shall
21 notify the person or entity in writing of the nature of the
22 alleged violation and provide an opportunity for the person
23 or entity to respond in writing to the allegation within 30
24 days after the notification is sent or such longer period

1 as the Director may determine appropriate in the cir-
2 cumstances.

3 (b) INITIAL DETERMINATION.—

4 (1) IN GENERAL.—If the person or entity re-
5 sponds within the period described in the notification
6 under subsection (a), the Director shall—

7 (A) issue a written determination that the
8 person or entity has not violated this Act if the
9 person or entity provides adequate information
10 or explanation to make such determination; or

11 (B) make a formal request for information
12 under subsection (c) or a notification under sec-
13 tion 9(a), if the information or explanation pro-
14 vided is not adequate to make a determination
15 under subparagraph (A).

16 (2) WRITTEN DECISION.—If the Director makes
17 a determination under paragraph (1)(A), the Direc-
18 tor shall issue a public written decision in accord-
19 ance with section 10.

20 (c) FORMAL REQUEST FOR INFORMATION.—If a per-
21 son or entity fails to respond in writing within the period
22 described in the notification under subsection (a) or the
23 response is not adequate to determine whether such per-
24 son or entity has violated this Act, the Director may make
25 a formal request for specific additional written informa-

1 tion (subject to applicable privileges) that is reasonably
2 necessary for the Director to make such determination.
3 Each such request shall be structured to minimize any
4 burden imposed, consistent with the need to determine
5 whether the person or entity is in compliance with this
6 Act, and shall—

7 (1) state the nature of the conduct constituting
8 the alleged violation which is the basis for the in-
9 quiry and the provision of law applicable thereto;

10 (2) describe the class or classes of material to
11 be produced pursuant to the request with such defi-
12 niteness and certainty as to permit such material to
13 be readily identified; and

14 (3) prescribe a return date or dates which pro-
15 vide a reasonable period of time within which the
16 person or entity may assemble and make available
17 for inspection and copying or reproduction the mate-
18 rial so requested.

19 **SEC. 9. DETERMINATIONS OF VIOLATIONS.**

20 (a) NOTIFICATION AND HEARING.—If the informa-
21 tion provided to the Director under section 8 indicates
22 that a person or entity may have violated this Act, the
23 Director shall—

24 (1) notify the person or entity in writing of this
25 finding and, if appropriate, a proposed penalty as-

1 sessment and provide such person or entity with an
2 opportunity to respond in writing within 30 days
3 after the notice is sent; and

4 (2) if requested in writing by that person or en-
5 tity within that 30-day period, afford the person or
6 entity an opportunity for a hearing on the record
7 under the provisions of section 554 of title 5, United
8 States Code.

9 (b) DETERMINATION.—Upon the receipt of a written
10 response under subsection (a)(1) when no hearing under
11 subsection (a)(2) is requested, upon the completion of a
12 hearing requested under subsection (a)(2), or upon the ex-
13 piration of 30 days in a case in which no such written
14 response is received, the Director shall review the informa-
15 tion received under section 8 and this section (including
16 evidence presented at any such hearing) and make a final
17 determination whether there was a violation and a final
18 determination of the penalty, if any. If no written response
19 was received under this section within the 30-day period
20 provided, the determination and penalty assessment shall
21 constitute a final order not subject to appeal.

22 (c) WRITTEN DECISION.—

23 (1) DETERMINATION OF VIOLATION.—If the
24 Director makes a final determination under sub-
25 section (b) that there was a violation, the Director

1 shall issue a written decision in accordance with sec-
2 tion 10—

3 (A) directing the person or entity to cor-
4 rect the violation; and

5 (B) assessing a civil monetary penalty—

6 (i) in the case of a minor violation,
7 which shall be no more than \$10,000, de-
8 pending on the extent and gravity of the
9 violation;

10 (ii) in the case of a major violation,
11 which shall be more than \$10,000, but no
12 more than \$100,000, depending on the ex-
13 tent and gravity of the violation;

14 (iii) in the case of a late registration
15 or filing, which shall be \$200 for each
16 week by which the registration or filing
17 was late, unless the Director determines
18 that the failure to timely register or file
19 constitutes a major violation (as defined
20 under subsection (e)(2)) in which case the
21 amount shall be as prescribed by clause
22 (ii); or

23 (iv) in the case of a failure to provide
24 information requested by the Director pur-
25 suant to section 8(c), which shall be no

1 more than \$10,000, depending on the ex-
2 tent and gravity of the violation, except
3 that no penalty shall be assessed if the Di-
4 rector determines that the violation was
5 the result of a good faith dispute over the
6 validity or appropriate scope of a request
7 for information.

8 (2) DETERMINATION OF NO VIOLATION OR IN-
9 SUFFICIENT EVIDENCE.—If the Director determines
10 that no violation occurred or there was not sufficient
11 evidence that a violation occurred, the Director shall
12 issue a written decision in accordance with section
13 10.

14 (d) CIVIL INJUNCTIVE RELIEF.—If a person or en-
15 tity fails to comply with a directive to correct a violation
16 under subsection (c), the Director shall refer the case to
17 the Attorney General to seek civil injunctive relief in the
18 appropriate court of the United States to compel such per-
19 son or entity to comply with such directive.

20 (e) PENALTY ASSESSMENTS.—

21 (1) GENERAL RULE.—No penalty shall be as-
22 sessed under this section unless the Director finds
23 that the person or entity subject to the penalty knew
24 or should have known that such person or entity was
25 in violation of this Act. In determining the amount

1 of a penalty to be assessed, the Director shall take
2 into account the totality of the circumstances, in-
3 cluding the extent and gravity of the violation,
4 whether the violation was voluntarily admitted and
5 corrected, the extent to which the person or entity
6 may have profited from the violation, the ability of
7 the person or entity to pay, and such other matters
8 as justice may require.

9 (2) REGULATIONS.—Regulations prescribed by
10 the Director under section 7 shall define major and
11 minor violations. Major violations shall be defined to
12 include a failure to register and any other violation
13 that is extensive or repeated, if the person or entity
14 who failed to register or committed such other viola-
15 tion—

16 (A) had actual knowledge that the conduct
17 constituted a violation;

18 (B) acted in deliberate ignorance of the
19 provisions of this Act or regulations related to
20 the conduct constituting a violation; or

21 (C) acted in reckless disregard of the pro-
22 visions of this Act or regulations related to the
23 conduct constituting a violation.

24 (f) LIMITATION.—No proceeding shall be initiated
25 under section 8 or this section unless the Director notifies

1 the person or entity who is to be the subject of the pro-
2 ceeding of the alleged violation within 3 years after the
3 date on which the alleged violation occurred.

4 **SEC. 10. DISCLOSURE OF INFORMATION; WRITTEN DECISIONS.**
5

6 (a) DISCLOSURE OF INFORMATION.—Information
7 provided to the Director pursuant to sections 8 and 9 shall
8 not be made available to the public without the consent
9 of the person or entity providing the information, except
10 to the extent that such information may be included in—

11 (1) a new or amended report or registration
12 filed under this Act; or

13 (2) a written decision issued by the Director
14 under this section.

15 (b) WRITTEN DECISIONS.—All written decisions is-
16 sued by the Director under sections 8 and 9 shall be made
17 available to the public. The Director may provide for the
18 publication of a written decision if the Director determines
19 that publication would provide useful guidance. Before
20 making a written decision public, the Director—

21 (1) shall delete information that would identify
22 a person or entity who was alleged to have violated
23 this Act if—

24 (A) there was insufficient evidence to de-
25 termine that the person or entity violated this

1 Act or the Director found that person or entity
2 did not violate this Act, and

3 (B) the person or entity so requests; and

4 (2) shall delete information that would identify
5 any other person or entity (other than a person or
6 entity who was found to have violated this Act), if
7 the Director determines that such person or entity
8 could reasonably be expected to be injured by the
9 disclosure of such information.

10 **SEC. 11. JUDICIAL REVIEW.**

11 (a) FINAL DECISION.—A written decision issued by
12 the Director under section 9 shall become final 60 days
13 after the date on which the Director provides notice of
14 the decision, unless such decision is appealed under sub-
15 section (b) of this section.

16 (b) APPEAL.—Any person or entity adversely affected
17 by a written decision issued by the Director under section
18 9 may appeal such decision, except as provided under sec-
19 tion 9(b), to the appropriate United States court of ap-
20 peals. Such review may be obtained by filing a written no-
21 tice of appeal in such court no later than 60 days after
22 the date on which the Director provides notice of the Di-
23 rector's decision and by simultaneously sending a copy of
24 such notice of appeal to the Director. The Director shall
25 file in such court the record upon which the decision was

1 issued, as provided under section 2112 of title 28, United
2 States Code. The findings of fact of the Director shall be
3 conclusive, unless found to be unsupported by substantial
4 evidence, as provided under section 706(2)(E) of title 5,
5 United States Code. Any penalty assessed or other action
6 taken in the decision shall be stayed during the pendency
7 of the appeal.

8 (c) RECOVERY OF PENALTY.—Any penalty assessed
9 in a written decision which has become final under this
10 Act may be recovered in a civil action brought by the At-
11 torney General in an appropriate United States district
12 court. In any such action, no matter that was raised or
13 that could have been raised before the Director or pursu-
14 ant to judicial review under subsection (b) may be raised
15 as a defense, and the determination of liability and the
16 determination of amounts of penalties and assessments
17 shall not be subject to review.

18 **SEC. 12. RULES OF CONSTRUCTION.**

19 (a) CONSTITUTIONAL RIGHTS.—Nothing in this Act
20 shall be construed to prohibit or interfere with—

- 21 (1) the right to petition the government for the
22 redress of grievances;
- 23 (2) the right to express a personal opinion; or
- 24 (3) the right of association,
- 25 protected by the first amendment to the Constitution.

1 (b) PROHIBITION OF ACTIVITIES.—Nothing in this
 2 Act shall be construed to prohibit, or to authorize the Di-
 3 rector or any court to prohibit, lobbying activities or lobby-
 4 ing contacts by any person or entity, regardless of whether
 5 such person or entity is in compliance with the require-
 6 ments of this Act.

7 (c) AUDIT AND INVESTIGATIONS.—Nothing in this
 8 Act shall be construed to grant general audit or investiga-
 9 tive authority to the Director.

10 **SEC. 13. AMENDMENTS TO THE FOREIGN AGENTS REG-**
 11 **ISTRATION ACT.**

12 The Foreign Agents Registration Act of 1938 (22
 13 U.S.C. 611 et seq.) is amended—

14 (1) in section 1—

15 (A) by striking subsection (j);

16 (B) in subsection (o) by striking “the dis-
 17 semination of political propaganda and any
 18 other activity which the person engaging therein
 19 believes will, or which he intends to, prevail
 20 upon, indoctrinate, convert, induce, persuade,
 21 or in any other way influence” and inserting
 22 “any activity that the person engaging in be-
 23 lieves will, or that the person intends to, in any
 24 way influence”;

1 (C) in subsection (p) by striking the semi-
2 colon and inserting a period; and

3 (D) by striking subsection (q);

4 (2) in section 3(g) (22 U.S.C. 613(g)), by strik-
5 ing “established agency proceedings, whether formal
6 or informal.” and inserting “judicial proceedings,
7 criminal or civil law enforcement inquiries, investiga-
8 tions, or proceedings, or agency proceedings required
9 by statute or regulation to be conducted on the
10 record.”;

11 (3) in section 3 (22 U.S.C. 613) by adding at
12 the end the following:

13 “(h) Any agent of a person described in section
14 1(b)(2) or an entity described in section 1(b)(3) if the
15 agent is required to register and does register under the
16 Lobbying Disclosure Act of 1995 in connection with the
17 agent’s representation of such person or entity.”;

18 (4) in section 4(a) (22 U.S.C. 614(a))—

19 (A) by striking “political propaganda” and
20 inserting “informational materials”; and

21 (B) by striking “and a statement, duly
22 signed by or on behalf of such an agent, setting
23 forth full information as to the places, times,
24 and extent of such transmittal”;

25 (5) in section 4(b) (22 U.S.C. 614(b))—

1 (A) in the matter preceding clause (i), by
2 striking “political propaganda” and inserting
3 “informational materials”; and

4 (B) by striking “(i) in the form of prints,
5 or” and all that follows through the end of the
6 subsection and inserting “without placing in
7 such informational materials a conspicuous
8 statement that the materials are distributed by
9 the agent on behalf of the foreign principal, and
10 that additional information is on file with the
11 Department of Justice, Washington, District of
12 Columbia. The Attorney General may by rule
13 define what constitutes a conspicuous statement
14 for the purposes of this subsection.”;

15 (6) in section 4(c) (22 U.S.C. 614(c)), by strik-
16 ing “political propaganda” and inserting “informa-
17 tional materials”;

18 (7) in section 6 (22 U.S.C. 616)—

19 (A) in subsection (a) by striking “and all
20 statements concerning the distribution of politi-
21 cal propaganda”;

22 (B) in subsection (b) by striking “, and
23 one copy of every item of political propaganda”;
24 and

1 (C) in subsection (c) by striking “copies of
2 political propaganda,”;

3 (8) in section 8 (22 U.S.C. 618)—

4 (A) in subsection (a)(2) by striking “or in
5 any statement under section 4(a) hereof con-
6 cerning the distribution of political propa-
7 ganda”; and

8 (B) by striking subsection (d); and

9 (9) in section 11 (22 U.S.C. 621) by striking
10 “, including the nature, sources, and content of po-
11 litical propaganda disseminated or distributed”.

12 **SEC. 14. AMENDMENTS TO THE BYRD AMENDMENT.**

13 (a) REVISED CERTIFICATION REQUIREMENTS.—Sec-
14 tion 1352(b) of title 31, United States Code, is amended—

15 (1) in paragraph (2) by striking subparagraphs
16 (A), (B), and (C) and inserting the following:

17 “(A) the name of any registrant under the
18 Lobbying Disclosure Act of 1995 who has made
19 lobbying contacts on behalf of the person with
20 respect to that Federal contract, grant, loan, or
21 cooperative agreement; and

22 “(B) a certification that the person making
23 the declaration has not made, and will not
24 make, any payment prohibited by subsection
25 (a).”;

1 (2) in paragraph (3) by striking all that follows
2 “loan shall contain” and inserting “the name of any
3 registrant under the Lobbying Disclosure Act of
4 1995 who has made lobbying contacts on behalf of
5 the person in connection with that loan insurance or
6 guarantee.”; and

7 (3) by striking paragraph (6) and redesignating
8 paragraph (7) as paragraph (6).

9 (b) REMOVAL OF OBSOLETE REPORTING REQUIRE-
10 MENT.—Section 1352 of title 31, United States Code, is
11 further amended—

12 (1) by striking subsection (d); and

13 (2) by redesignating subsections (e), (f), (g),
14 and (h) as subsections (d), (e), (f), and (g), respec-
15 tively.

16 **SEC. 15. REPEAL OF CERTAIN LOBBYING PROVISIONS.**

17 (a) REPEAL OF THE FEDERAL REGULATION OF LOB-
18 BYING ACT.—The Federal Regulation of Lobbying Act (2
19 U.S.C. 261 et seq.) is repealed.

20 (b) REPEAL OF PROVISIONS RELATING TO HOUSING
21 LOBBYIST ACTIVITIES.—

22 (1) Section 13 of the Department of Housing
23 and Urban Development Act (42 U.S.C. 3537b) is
24 repealed.

1 (2) Section 536(d) of the Housing Act of 1949
2 (42 U.S.C. 1490p(d)) is repealed.

3 **SEC. 16. CONFORMING AMENDMENTS TO OTHER STATUTES.**

4 (a) AMENDMENT TO COMPETITIVENESS POLICY
5 COUNCIL ACT.—Section 5206(e) of the Competitiveness
6 Policy Council Act (15 U.S.C. 4804(e)) is amended by in-
7 serting “or a lobbyist for a foreign entity (as the terms
8 ‘lobbyist’ and ‘foreign entity’ are defined under section 3
9 of the Lobbying Disclosure Act of 1995)” after “an agent
10 for a foreign principal”.

11 (b) AMENDMENTS TO TITLE 18, UNITED STATES
12 CODE.—Section 219(a) of title 18, United States Code,
13 is amended—

14 (1) by inserting “or a lobbyist required to reg-
15 ister under the Lobbying Disclosure Act of 1995 in
16 connection with the representation of a foreign en-
17 tity, as defined in section 3(7) of that Act” after
18 “an agent of a foreign principal required to register
19 under the Foreign Agents Registration Act of
20 1938”; and

21 (2) by striking out “, as amended,”.

22 (c) AMENDMENT TO FOREIGN SERVICE ACT OF
23 1980.—Section 602(c) of the Foreign Service Act of 1980
24 (22 U.S.C. 4002(c)) is amended by inserting “or a lobby-
25 ist for a foreign entity (as defined in section 3(7) of the

1 Lobbying Disclosure Act of 1995)’’ after ‘‘an agent of a
2 foreign principal (as defined by section 1(b) of the Foreign
3 Agents Registration Act of 1938)’’.

4 **SEC. 17. SEVERABILITY.**

5 If any provision of this Act, or the application there-
6 of, is held invalid, the validity of the remainder of this
7 Act and the application of such provision to other persons
8 and circumstances shall not be affected thereby.

9 **SEC. 18. AUTHORIZATION OF APPROPRIATIONS.**

10 There are authorized to be appropriated for fiscal
11 years 1995, 1996, 1997, 1998, and 1999 such sums as
12 may be necessary to carry out this Act.

13 **SEC. 19. IDENTIFICATION OF CLIENTS AND COVERED OFFI-**
14 **CIALS.**

15 (a) ORAL LOBBYING CONTACTS.—Any person or en-
16 tity that makes an oral lobbying contact with a covered
17 legislative branch official or a covered executive branch of-
18 ficial shall, on the request of the official at the time of
19 the lobbying contact—

20 (1) state whether the person or entity is reg-
21 istered under this Act and identify the client on
22 whose behalf the lobbying contact is made; and

23 (2) state whether such client is a foreign entity
24 and identify any foreign entity required to be dis-

1 closed under section 4(b)(4) that has a direct inter-
2 est in the outcome of the lobbying activity.

3 (b) WRITTEN LOBBYING CONTACTS.—Any person or
4 entity registered under this Act that makes a written lob-
5 bying contact (including an electronic communication)
6 with a covered legislative branch official or a covered exec-
7 utive branch official shall—

8 (1) if the client on whose behalf the lobbying
9 contact was made is a foreign entity, identify such
10 client, state that the client is considered a foreign
11 entity under this Act, and state whether the person
12 making the lobbying contact is registered on behalf
13 of that client under section 4; and

14 (2) identify any other foreign entity identified
15 pursuant to section 4(b)(4) that has a direct interest
16 in the outcome of the lobbying activity.

17 (c) IDENTIFICATION AS COVERED OFFICIAL.—Upon
18 request by a person or entity making a lobbying contact,
19 the individual who is contacted or the office employing
20 that individual shall indicate whether or not the individual
21 is a covered legislative branch official or a covered execu-
22 tive branch official.

23 **SEC. 20. TRANSITIONAL FILING REQUIREMENT.**

24 (a) SIMULTANEOUS FILING.—Subject to subsection

25 (b), each registrant shall transmit simultaneously to the

1 Secretary of the Senate and the Clerk of the House of
2 Representatives an identical copy of each registration and
3 report required to be filed under this Act.

4 (b) SUNSET PROVISION.—The simultaneous filing re-
5 quirement under subsection (a) shall be effective until
6 such time as the Director, in consultation with the Sec-
7 retary of the Senate and the Clerk of the House of Rep-
8 resentatives, determines that the Office of Lobbying Reg-
9 istration and Public Disclosure is able to provide computer
10 telecommunication or other transmittal of registrations
11 and reports as required under section 7(b)(11).

12 (c) IMPLEMENTATION.—The Director, the Secretary
13 of the Senate, and the Clerk of the House of Representa-
14 tives shall take such actions as necessary to ensure that
15 the Office of Lobbying Registration and Public Disclosure
16 is able to provide computer telecommunication or other
17 transmittal of registrations and reports as required under
18 section 7(b)(11) on the effective date of this Act, or as
19 soon thereafter as reasonably practicable.

20 **SEC. 21. ESTIMATES BASED ON TAX REPORTING SYSTEM.**

21 (a) ENTITIES COVERED BY SECTION 6033(b) OF THE
22 INTERNAL REVENUE CODE OF 1986.—A registrant that
23 is required to report and does report lobbying expenditures
24 pursuant to section 6033(b)(8) of the Internal Revenue
25 Code of 1986 may—

1 (1) make a good faith estimate (by category of
2 dollar value) of applicable amounts that would be re-
3 quired to be disclosed under such section for the ap-
4 propriate semiannual period to meet the require-
5 ments of sections 4(a)(3), 5(a)(2), and 5(b)(4); and

6 (2) in lieu of using the definition of “lobbying
7 activities” in section 3(8) of this Act, consider as
8 lobbying activities only those activities that are influ-
9 encing legislation as defined in section 4911(d) of
10 the Internal Revenue Code of 1986.

11 (b) ENTITIES COVERED BY SECTION 162(e) OF THE
12 INTERNAL REVENUE CODE OF 1986.—A registrant that
13 is required to account for lobbying expenditures and does
14 account for lobbying expenditures pursuant to section
15 162(e) of the Internal Revenue Code of 1986 may—

16 (1) make a good faith estimate (by category of
17 dollar value) of applicable amounts that would not
18 be deductible pursuant to such section for the appro-
19 priate semiannual period to meet the requirements
20 of sections 4(a)(3), 5(a)(2), and 5(b)(4); and

21 (2) in lieu of using the definition of “lobbying
22 activities” in section 3(8) of this Act, consider as
23 lobbying activities only those activities, the costs of
24 which are not deductible pursuant to section 162(e)
25 of the Internal Revenue Code of 1986.

1 (c) DISCLOSURE OF ESTIMATE.—Any registrant that
2 elects to make estimates required by this Act under the
3 procedures authorized by subsection (a) or (b) for report-
4 ing or threshold purposes shall—

5 (1) inform the Director that the registrant has
6 elected to make its estimates under such procedures;
7 and

8 (2) make all such estimates, in a given calendar
9 year, under such procedures.

10 (d) STUDY.—Not later than March 31, 1997, the
11 Comptroller General of the United States shall review re-
12 porting by registrants under subsections (a) and (b) and
13 report to the Congress—

14 (1) the differences between the definition of
15 “lobbying activities” in section 3(8) and the defini-
16 tions of “lobbying expenditures”, “influencing legis-
17 lation”, and related terms in sections 162(e) and
18 4911 of the Internal Revenue Code of 1986, as each
19 are implemented by regulations;

20 (2) the impact that any such differences may
21 have on filing and reporting under this Act pursuant
22 to this subsection; and

23 (3) any changes to this Act or to the appro-
24 priate sections of the Internal Revenue Code of 1986

1 that the Comptroller General may recommend to
2 harmonize the definitions.

3 **SEC. 22. EFFECTIVE DATES AND INTERIM RULES.**

4 (a) IN GENERAL.—Except as otherwise provided in
5 this section, this Act and the amendments made by this
6 Act shall take effect January 1, 1996.

7 (b) EFFECTIVE DATE OF GIFT PROHIBITION.—Sec-
8 tion 6 shall take effect on January 3, 1995. Beginning
9 on that date, and for the remainder of calendar year 1995,
10 such section shall apply to any gift provided by a lobbyist
11 or an agent of a foreign principal registered under the
12 Federal Regulation of Lobbying Act or the Foreign Agents
13 Registration Act, including any person registered under
14 such Acts as of July 1, 1994, or thereafter.

15 (c) ESTABLISHMENT OF OFFICE.—Sections 7 and 18
16 shall take effect on the date of enactment of this Act.

17 (d) REPEALS AND AMENDMENTS.—The repeals and
18 amendments made under sections 13, 14, 15, and 16 shall
19 take effect as provided under subsection (a), except that
20 such repeals and amendments—

21 (1) shall not affect any proceeding or suit com-
22 menced before the effective date under subsection
23 (a), and in all such proceedings or suits, proceedings
24 shall be had, appeals taken, and judgments rendered

1 in the same manner and with the same effect as if
2 this Act had not been enacted; and

3 (2) shall not affect the requirements of Federal
4 agencies to compile, publish, and retain information
5 filed or received before the effective date of such re-
6 peals and amendments.

7 (e) REGULATIONS.—Proposed regulations required to
8 implement this Act shall be published for public comment
9 no later than 270 days after the date of the enactment
10 of this Act. No later than 1 year after the date of the
11 enactment of this Act, final regulations required to imple-
12 ment this Act shall be published.

13 (f) PHASE-IN PERIOD.—No penalty shall be assessed
14 by the Director under section 9(e) for a violation of this
15 Act, other than for a violation of section 6, which occurs
16 during the first semiannual reporting period under section
17 5 after the effective date prescribed by subsection (a).

18 (g) INTERIM DIRECTOR.—Within 30 days after the
19 date of the enactment of this Act, the President shall des-
20 ignate an interim Director of the Office of Lobbying Reg-
21 istration and Public Disclosure, who shall serve at the
22 pleasure of the President until a Director of such Office
23 has been nominated by the President and confirmed by
24 the Senate. The interim Director may not promulgate

- 1 final regulations pursuant to section 7(d) or initiate proce-
- 2 dures for alleged violations pursuant to section 8.

S 1060 PCS—2

S 1060 PCS—3

S 1060 PCS—4

S 1060 PCS—5